



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/568,173	02/10/2006	Walid Ali	PHUS030273US	6165
38107	7590	09/08/2008	EXAMINER	
PHILIPS INTELLECTUAL PROPERTY & STANDARDS			BEHRINGER, LUTHER G	
595 MINER ROAD			ART UNIT	PAPER NUMBER
CLEVELAND, OH 44143			3766	
MAIL DATE		DELIVERY MODE		
09/08/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/568,173	ALI, WALID	
	Examiner	Art Unit	
	LUTHER G. BEHRINGER	3766	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 22 July 2008.
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-16 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-16 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 10 February 2006 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date _____.	6) <input type="checkbox"/> Other: _____ .

DETAILED ACTION

1. This office action is in response to the communication received on 07/22/2008 concerning application no. 10/568173 filed on 02/10/2006.
2. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claim(s) 13 – 15 are rejected under 35 U.S.C. 102(b) as being anticipated by **Snyder et al. (US 6,287,328)**.

Regarding **claim 13**, Snyder et al. discloses a device comprising: a controller, *inference processor*; a memory coupled to the controller; and an input interface arranged to receive at least two event signals, *measurement system*, wherein the controller is arranged to determine a global correlation, *non-event signal*, for the at least two event signal over a first period of time, determine a local correlation, *event signal*, for the at least two event signals over a second period of time which is shorter than the first period of time, determine a deviation between a local correlation vector and a global correlation vector, determine an average deviation from the deviation and determine

whether an artifact was detected in one of the at least two event signals (Column 4, lines 24 – 41).

Regarding **claim 14**, Snyder et al. discloses wherein said device is a patient monitoring system (Abstract).

Regarding **claim 15**, Snyder et al. discloses wherein said at least two event signals are patient monitored data signals (Column 4, lines 45 – 47).

5. Claim(s) 13 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by **Stadler et al (US 6,397,100, herein Stadler)**.

Regarding **claims 13 and 16**, the examiner is maintaining the rejection as stated in the office action dated 06/02/2008.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.

4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
8. Claim(s) 1 – 3, 7 – 9, 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Snyder et al. (US 6,287,328, herein Snyder)**.

Regarding **claim(s) 1 and 7**, Snyder discloses a controller, *inference processor*; a memory coupled to the controller; and an input interface which receives at least two event signals, *measurement system*, wherein the controller determines: a global correlation matrix for the at least two event signals over a first period of time a local correlation matrix for the at least two event signals over a second period of time which is shorter than the first period of time, a correlation vector indicative of a deviation between the local correlation matrix and the global correlation matrix, an average of the correlation vector and whether an artifact was detected in one of the at least two event signals from the correlation vector and the average, of the correlation vector (Column 4, lines 24 – 41).

9. Snyder discloses the claimed invention except for the use of matrices. Snyder does disclose the use of recording event signals which would inherently provide the signals with a direction between the sensing electrodes, thereby fulfilling the definition of a vector as having magnitude and direction. It would have been obvious to a person having ordinary skill in the art at the time of the invention to sample the vectors several times, to create a matrix, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

Regarding **claim(s) 2 and 8**, Snyder et al. discloses wherein said device is a patient monitoring system (Abstract).

Regarding **claim(s) 3 and 9**, Snyder et al. discloses wherein said at least two event signals are patient monitored data signals (Column 4, lines 45 – 47).

Regarding **claim 11**, Snyder et al. discloses a memory for recording the at least two event signals (Column 4, lines 24 – 41).

Regarding **claim 12**, Snyder et al. discloses wherein said device is a server forming part of a client-server network (Column 8, lines 62 –67).

10. Claim 4 – 6 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Snyder et al. (US 6,287,328, herein Snyder)** in view of **Stadler et al. (US 6,397,100, herein Stadler)**.

Regarding **claim 4**, Snyder discloses all of the limitations of claim 4 as disclosed in claim 1 above and additionally comparing the correlated signal to a threshold (Col. 6, Lines 5 – 8), but fails to disclose an alarm indicator coupled to the controller, the alarm indicator being triggered if at least one of the event signals crosses a preset threshold value and the controller determines that no artifact was detected in the at least one event signal.

However, Stadler teaches the use of an alarm indicator coupled to the controller, the alarm indicator being triggered if at least one of the event signals crosses a preset threshold value and the controller determines that no artifact was detected in the at least one event signal (Col. 3, Lines 8 – 13).

11. A person of ordinary skill in the art, upon reading the reference, would have recognized the desirability of having an alarm to notify a practitioner of a potential problem. Thus, it would have been obvious to a person having ordinary skill in the art at the time of the invention to modify Snyder to include an alarm as taught by Stadler, since doing so would potentially aid in the treatment of a patient.

Regarding **claim 5**, Snyder et al. in view of Stadler discloses a memory for recording the at least two event signals (Snyder: Column 4, lines 24 – 41).

Regarding **claim 6**, Snyder et al. in view of Stadler discloses wherein said device is a server forming part of a client-server network (Snyder: Column 8, lines 62 –67).

Regarding **claim 10**, Snyder in view of Stadler discloses providing an alarm indication in response to at least one of the event signals crossing a preset threshold value and no artifact was detected in the at least one event signal (as stated above in claim 4).

Conclusion

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LUTHER G. BEHRINGER whose telephone number is (571)270-3868. The examiner can normally be reached on Mon - Thurs 8:00 - 5:30; 2nd Friday 8:00 - 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Layno can be reached on (571) 272-4949. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Carl H. Layno/

Application/Control Number: 10/568,173

Page 8

Art Unit: 3766

Supervisory Patent Examiner, Art Unit 3766

/Luther G Behringer/
Examiner, Art Unit 3766